IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

THURSDAY, THE 22ND FEBRUARY 2007 / 3RD PHALGUNA 1928

OP.No. 19651 of 2002(M)

PETITIONER:

SREEKANTH S MALLAYYA,
THARAIPARAMBIL HOUSE, NORTH OF T.D.TEMPLE,
ERNAKULAM - 682 035

BY ADV. SRI.C.P.SUDHAKARA PRASAD

RESPONDENTS:
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1. THE SECRETARY, CORPORATION OF COCHIN.

2. THE ASSISTANT EXECUTIVE ENGINEERS,
CENTRAL ELECTRICAL MAJOR SECTION, ERNAKULAM.

3. THE ASSTT.ENVIRONMENT ENGINEER,
KERALA STATE POLLUTION CONTROL BOARD,
GANDHI NAGAR, KOCHI-20.

4. S.SEVANANDA MALLAYYA
THAIPARAMBIL HOUSE, NORT T.D.TEMPLE,
ERNAKULAM - 682 035.

BY ADV. SRI.BABU JOSEPH KURUVATHAZHA,SC,POLU.C.
SRI.K.ANAND (A.201)
SRI.K.K.CHANDRAN PILLAI
SRI.GIGIMON ISSAC
SRI.K.S.DILIP
SMT.J.VIDYALAKSHMI
SMT.BHASURA VALSVAN

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 22/02/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

O.P.No. 19651/2002

ORDER ON CMP NO. 33491/2002 IN O.P.No. 19651/2002

DISMISSED.

22/02/2007 SD/- (C.N.RAMACHANDRAN NAIR, JUDGE)

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1 COPY OF THE ROUGH SKETCH SHOWING THE PETITIONER'S AND 4TH RESPONDENT'S PROSPECTUS.

EXT.P2 COPY OF THE CERTIFICATE DATED 30/7/73 ISSUED BY THE DEPARTMENT OF INDUSTRIES AND COMMERCE.

EXT.P3 COPY OF THE PETITION DATED 5/12/2000 BEFORE THE DY.CHIEF ENGINEER BY PETITIONER'S BROTHER.

EXT.P4 COPY OF THE PETITION DATED 15/5/01 FILED BEFORE THE 2ND RESPONDENT.

EXT.P5 COPY OF THE ORDER DATED 6/8/01 PASSED BY THE HEALTH OFFICER OF 1ST RESPONDENT.

EXT.P6 COPY OF THE ORDER DATED 08/08/01 PASSED BY 1ST RESPONDENT.

EXT.P7 COPY OF THE CERTIFICATE DATED 30/7/73 PRODUCED BY 4TH RESPONDENT.

EXT.P8 COPY OF THE CERTIFICATE DATED NIL PRODUCED BY 4TH RESPONDENT.

EXT.P9 COPY OF THE JUDGMENT IN O.P.NOS. 25547/01 & 24563/01.

EXT.P10 COPY OF THE PETITIONS FILED (SERIES) BY RESIDENTS OF THE LOCALITY.

EXT.P11 COPY OF THE ORDER PASSED BY 1ST RESPONDENT DATED 14/5/2002.

EXT.P12 COPY OF THE ORDER PASSED BY 1ST RESPONDENT DATED 17/6/02.

EXT.P13 COPY OF THE REPRESENTATION FILED BY THE PETITIONER BEFORE THE 3RD RESPONDENT DATED 05/07/2002.

EXT.P14 COPY OF THE SHOP INSPECTION REPORT DATED 04/01/93 CONDUCTED BY THE ADDITONAL SALES TAX OFFICER, II CIRCLE, ERNAKULAM.

EXT.P15 COPY OF THE ELECTRICITY BILL DATED 08/01/1977.

RESPONDENT'S EXHIBITS

EXT.R4(a) COPY OF THE RENEWAL LICENCE DATED 23/7/2003 FOR 2003-04.

EXT.R4(b) COPY OF OFFICIAL RECEIPT DATED 14/2/2003 EVIDENCING PAYMENT OF LICENCE FEE.

EXT.R4(c) COPY OF LICENCE DATED 06/07/2002 FOR THE YEAR 2002-03.

EXTR4(d) COPY OF PREMISES METER CARD DATED 04/09/2002 ISSUED FROM THE KERALA STATE ELECTRICITY BOARD.

// TRUE COPY //

jg PA TO JUDGE

C.N.RAMACHANDRAN NAIR, J.

O.P. No. 19651 of 2002 M

Dated, this the 22nd day of February, 2007

J U D G M E N T

Dispute is between the petitioner and the 4th respondent, who are cousins. The case of the petitioner is that 4th respondent is either running the work shop without licence or licence is granted by the Municipality without referring to Sec. 448 of the Municipalities Act. The learned counsel for the 4th respondent submits that 4th respondent is running a small workshop without causing any nuisance to the petitioner. He pointed out that under the condition of the licence, heavy hammering is prohibited. 4th respondent's claim is that he is running the workshop for over 30 years. However, petitioner's case is that 4th respondent shifted the workshop from another place. I do not think that there is any need for this Court to enter into findings on the controversy because if licence conditions are violated, petitioner is free to approach the Secretary of the Municipal Corporation and it is for him to conduct enquiry and hear the 4th respondent and take appropriate action. Similarly when the

licence is renewed, the Secretary of the Municipal Corporation will take into account the objection raised by the petitioner and renewal should be granted subject to strict conditions, so that 4th respondent will run the workshop without causing any nuisance to the petitioner or other neighborers.

This original petition is disposed of as above.

(C.N.RAMACHANDRAN NAIR, JUDGE.)

jg